

## Part 11.

### XI. "Reform" & change of the legal policy making process in the U. S.: trial & appellate.

A. "Voice" changes: The politics of the refinement of accountability & the improvement of the administration of legal processes.

#### 1. Politics of General Administrative Change & Civil Process Changes.

- Baar, C. "Scope & Limits of Ct. Reform," 5 Just. Sys. J. 274 (1980).
- Barnes, J. "Rethinking the Landscape of Tort Reform: Legislative Inertia & Court-Based Tort Reform in the Case of Asbestos," 28 Just. Sys. J. 157 (2007).
- Bell, P. & O'Connell, J. Accidental Justice: the Dilemmas of Tort Law (1997).
- Berk, R., Brackman, Lesser, S. The Measure of Justice (1976).
- Berman, G., Rempel, M., & Wolf, R. Documenting Results: Research on Problem Solving Justice (2007).
- Brickley, J., Lu, S., Wedig, G. "Malpractice Laws & Incentives to Shield Assets: Evidence from Nursing Homes," 14 J. Emp. Leg. Stud. 301 (2017).
- Chilton, B., King, S. "Jud. Integrity & Budget Cuts in the States: Is the Devil in the Details," 34 Just. Sys. J. 1 (2013).
- Church, T. "Mansion v. Gatehouse," 75 Judicature 255 (1992).
- Church, T. Speedy Disposition (1992).
- Coolsen, J. "Case Management Innovation in a Large, Urban Trial Court: The Critical Importance of Legal Stakeholder Attitudes," 30 Just. Sys. J. 70 (2009).
- Cook, B. "Piecemeal Reform of Kansas Cts.," 53 Judicature 274 (1969-70).
- Curran, B. & Spalding, F. The Legal Needs of the Public (1974).
- Dalton, T. The State Politics of Jud. & Congressional Reform (1985).
- Daniels, S. & Martin, J. "Jury Verdicts & the Crisis in Civil Justice," 11 Just. Sys. J. 321 (1986).
- Daniels, S. & Martin, J. Tort Reform, Plaintiffs' Lawyers & Access to Justice (2015).
- Dubois, P. ed. The Analysis of Jud. Reform (1982).
- Dubois, P. "Voter Responses to Ct. Reform," 73 Judicature 238 (1990).
- Feeley, M. Ct. Reform on Trial (1983).
- Flango, V., Clarke, T. Reimagining Courts: A Design for the Twenty -First Century (2014).
- Fox, D., Yamagata, H. Harris, P. "From Performance Measurement to Performance Management: Lessons from a Maryland Circuit Court," 35 Just. Sys. J. 87 (2014).
- Friedman, L. "Law Reform in Historical Perspective," 13 St. Louis U.L.J. 351 (1969).
- Galanter, M. "The Day after the Litigation Explosion," 46 Md. L. Rev. 3 (1986).
- Gould, J. "Studying Inequality with One Eye: A New Agenda for Evaluating Disparate Treatment in the Courts," 23 Just. Sys. J. 317 (2002).
- Harrington, C. "Delegalization Reform Movements," in Abel, R. The Politics of Informal Justice (1982).
- Hartmus, D., Walters, J. "Municipal Bankruptcy & Local Ct, Funding: What We Can Learn from the City of Detroit, Mich.," 37 Just. Sys. J. 144 (2016).
- Hensler, D. "Taking Aim at the Am. Legal Sys.," 75 Judicature 244 (1991) & response by Butler & Miller at p. 251.
- Heydebrand, W. & Seron, C. "The Rising Demand for Ct. Services," 11 Just. Sys. J. 303 (1986).
- Holewa, S. "Court Reform: The North Dakota Experience," 30 Just. Sys. J. 91 (2009).
- Huber, P. Liability (1988).
- Kimbrough, C., Herian, M., Rottman, D., Bornstein, B. "Verdict Is in: Judge &

Administrator Perceptions of State Ct. Governance,” 35 Just. Sys. J. 344 (2014).

Kuhl, C. et al. “Toward Quicker, Cheaper, Faster Litigation: A Unified Theory of Case Management,” 107 Judicature 34 (2023).

Lamber, J. & Luskin, M. “Court Reform: View from the Bottom,” 75 Judicature 295 (1992).

Lieberman, J. The Litigious Society (1981).

Litan, R. & Winston, C. eds. Liability (1988).

McEwen, C. & Maiman, R. “Coercion & Consent,” 10 Law & Policy 3 (1988).

Mahoney, B. Changing Times in Trial Cts. (1988).

Mashaw, J. Greed, Chaos & Governance (1997).

Miller, A. “Science Challenges Law,” 13 Am. Beh. Sci. 585 (1970).

Miller, M. “Lawmaker attitudes toward Ct. reform in Mass.,” 77 Judicature 34 (1993).

Munsterman, G.T., Hannaford, P. & Whitehead, G. P. Eds. Jury Trial Innovations (1997).

Nagel, S. ed. Improving the Legal Process (1975).

Nagel, S. Law, Policy, & Optimizing Analysis (1986).

Nelson, R. “Ideology, Scholarship, & Sociological Change,” 21 L&SR 677 (1988).

Pilchen, I. “The future & the courts,” 76 Judicature 137 (1992).

Posner, R. The Federal Cts. (1985, 1996).

Reed, J. The Application of Operations Research to Ct. Delay (1973).

Rickard, E., Naqui, Q. “Pandemic Technology in State Civil Courts,” 105 Judicature (2021-2).

Robertson, L. “An Instance of Effective Legal Regulation,” 10 L&SR 467 (1976).

Rosenberg, M. “Civil Justice Research & Civil Justice Reform,” 15 L&SR 473 (1980-1).

Ross, H., Campbell, D., Glass, G. “Determining the Effects of a Legal Reform,” 13 Am. Beh. Sci. #4 (1970).

Ross, H. “Law, Science, & Accidents,” 2 J. Legal Stud. 1 (1973).

Rossner, M. “Remote rituals in virtual courts,” 48 J Law Soc. 334 (2021)..

Scheb, J. & Matheny, A. “Jud. Reform & Rationalization,” 10 Law & Policy 25 (1988).

Strier, F. Reconstructing Justice (1994).

Steelman, D. “What Have We Learned about Ct. Delay, Local Legal Culture, & Caseflow Management Since the Late 1970s,” 19 Just. Sys. J. 145 (1997).

Symposium. “Examining Ct. Consolidation in Michigan,” 85 Judicature 115 (2001).

Symposium: “Technology & Cts.,” 27 Just. Sys. J. 243 (2006).

Tanford, J. “Law Reform by Cts., Legs., & Comm’ns. Following Empirical Research on Jury Instructions,” 25 L&SR 155 (1991).

Wilhelm, T. et al.” Jud. Reform in the Am. States: The Chief Justice as Pol. Advocate,” 20 State Pol. & Pol. Q. 135 (2020).

Winkle, J. “Judges before Congress,” 22 Polity 443 (1990).

Winkle, J. & Oswald, R. “The role of trial judges in state Ct. reform: The case of Mississippi,” 91 Judicature 288 (2008).

## 2. Criminal Process Change.

Barlow, D. & M., Johnson, W. “The Political Economy of Criminal Justice Policy,” 13 Justice Q. 223 (1996).

Bradley, C. Failure of the Criminal Procedure Revolution (1993).

Caldiera, G. & Cowart, A. “Budgets, Institutions, & Change,” 24 AJoPS 413 (1980). (crim. just.)

Campbell, D. & Ross, H. “The Conn. Crackdown on Speeding,” 3 L&SR 33 (1968).

Casper, J. & Brereton, D. “Evaluating Criminal Justice Reforms,” 18 L&SR 121 (1984).

Cuklanz, L. Rape on Trial (1996)

Feeley, M. & Sarat, A. The Policy Dilemma (1980) (crim. just.).

Garrett, B., Thompson, S. “Monitoring the Misdemeanor Bail Reform Consent Decree in

Harris County, Texas," 105 Judicature 41 (2021).

Heumann, M. & Church, T. "Crim. Just. Reform, Monetary Incentives, & Policy Evaluation," 12 Law & Policy 81 (1990).

Horney, J. & Spohn, C., "Rape Law Reform & Instrumental Change in Six Urban Jurisdictions," 25 L&SR 117 (1991).

Jacob, H. ed. Potential for the Reform of Criminal Justice (1974).

Jacob, H. The Frustration of Policy (1984) (criminal just.)

Kahn, N., Gupta-Kagan, J., Hansen, M. "The Standard of Proof in the Substantiation of Child Abuse & Neglect," 14 J. Emp. Leg. Stud. 333 (2017).

Long, L. "Innovation in Urban Misdemeanor Cts.," in Jacob, H. Potential for the Reform of Criminal Justice (1974).

McMahon-Howard, J. "Does the Controversy Matter? Comparing the Causal Determinants of the Adoption of Controversial & Non-controversial Rape Law Reforms," 45 L&SR 401 (2011).

Oleson, J. C. "Decoupled System: Federal Criminal Justice & the Structural Limits of Transformation," 35 Just. Sys. J. 383 (2014)

Reich, R. "Operations Research & Criminal Justice," 22 J. Pub. Law 357 (1973).

Rojek, D. & Erickson, M. "Reforming the Juvenile Justice System," 16 L&SR 241 (1981-2).

Ross, H. "The Neutralization of Severe Penalties," 10 L&SR 403 (1976).

Solomon, P. & Gardiner, J. "Pol. Obstacles to Change in Criminal Justice Agencies," in The Change Process in Criminal Justice (USGPO 1973).

Steiner, B. Et al. "Short-Term Effects of Sanctioning Reform on Parole Officers' Revocation Decisions," 45 L&SR 371 (2011).

Uviller, R. The Tilted Playing Field: Is Criminal Justice Unfair? (1999).

Yamagata, H., Fox, D. "Evaluating the Use of Videoconferencing Technology in Domestic Violence Ex Parte Hearings: Assessing Procedural Consistency," 38 Just. Sys. J. 135 (2017).

### 3. Judiciary: Evaluation, Improvement & Change.

Anleu, S., Mack, K. "Jud. Performance & Experiences of Jud. Work: Findings from Socio-legal Research," 4 Oñati Socio-Leg. Ser., 1015 (2014).

Berch, R., Bass, E. "Jud. Performance Review in Arizona: A Critical Assessment," 4 Oñati Socio-Leg. Ser., 927 (2014).

Brody, D. "Jud. Performance Evaluation by State Governments: Informing the Public While Avoiding the Pitfalls," 21 Just. Sys. J. 333 (1999-2000).

Cohn, R. To Judge the Judge (1973).

Contini, F., Mohr, R., Velicogna, M. "Formula over Function? From Algorithms to Values in Jud. Evaluation," 4 Oñati Socio-Leg. Ser., 1099 (2014).

Elek, J., Rottman, D., & Cutler, B. "Jud. Performance Evaluation," 96 Judicature 65 (2012).

Elek, J., Rottman, D. "Methodologies for Measuring Jud. Performance: The Problem of Bias," 4 Oñati Socio-Leg. Ser., 863 (2014).

Elek, J., Rottman, D, Cutler, B. "Judicial Performance Evaluation in the States: A Re-Examination" 98 Judicature 12 (2014).

Esterling, K. "Jud. Accountability the right way," 82 Judicature 206 (1999).

Gill, R., Lazos, S. & Waters, M. "Are Jud. Performance Evaluations Fair to Women & Minorities?" 45 L&SR 731 (2011).

Gill, R. "Implicit Bias in Jud. Performance Evaluations: We Must Do Better than This," 35 Just. Sys. J. 271 (2014).

Gill, R., Retzel, K. "The JPE Commission: Toward a More Transparent & Informative Evaluation," 98 Judicature 26 (2014).

Goelzhauser, G. "Accountability & Jud. Performance: Evidence from Case

- Dispositions,” 33 Just. Sys. J. 249 (2012).
- Langbroek, P., van der Linden, T. “Researching Justification Texts of a First Instance Court: from Assignment to Results & Reporting,” 4 Oñati Socio-Leg. Ser., 1071 (2014).
- MacIntyre, J. “Evaluating Jud. Performance Evaluation: A Conceptual Analysis,” 4 Oñati Socio-Leg. Ser., 898 (2014).
- Melville, A. “Evaluating Jud. Performance & Addressing Gender Bias,” 4 Oñati Socio-Leg. Ser., 880 (2014).
- Perlow, J. “Courting Quality: A Survey of Quality Management Practices in American Courts,” 108 Judicature 52 (2024).
- Rottman, D., Tyler, T. “Thinking about Judges & Jud. Performance: Perspective of the Public & Ct. Users,” 4 Oñati Socio-Leg. Ser., 1046 (2014).
- Sen, M. “Minority Judicial Candidates Have Changed: The ABA Ratings Gap Has Not.” 98 Judicature 46 (2014).
- Singer, J. “Attorney Surveys of Judicial Performance,” 98 Judicature 20 (2014).
- Smelcer, S., Steigerwalt, A., Vining, R.” Where One Sits Affects Where Others Stand,” 98 Judicature 35 (2014).

B. "Exit" Options. Can the law be reconstructed?

- Jacob, H. Silent Revolution (1988).
- Schur, E. Victimless Crimes (1975).

C. Ethical Issues in Jud. Policymaking.

- Borkin, J. The Corrupt Judge (1962).
- Braithwaite, W. Who Judges the Judges? (1971).
- Casey, G. "Public Perceptions of Jud. Scandal," 13 Just. Sys. J. 284 (1988-9).
- Diaz, A., Alagna, S. “The Courthouse Ethics & Transparency Act: New Obligations for Federal Judges,” 107 Judicature 78 (2023).
- Noonan, J. & Winston, K. The Responsible Judges (1993).
- Symposium: “Jud. Conduct & Ethics” 28 Just. Sys. J. 257 (2007).
- Volcansek, M. Jud. Misconduct (1996).